

### REMARKS/ARGUMENTS

Claims 1-12, 14-27, 34-39, 48-50 and 53-60 are now pending.

5 Listing of Claims

The Office Action states that the amendment filed on 3/14/2008 (as well as the amendments filed on 1/17/02, 6/17/03, and 12/15/03) propose amendments to reissue application that do not comply with 37 CFR 1.173(b). Submitted herewith is a complete listing of the claims in the application that complies with 37 CFR 1.173(b). The amendments made are relative to the  
10 original patented claims.

Time Period for Reply

The Office Action Summary states that “A SHORTENED STATUTORY PERIOD FOR  
15 REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS  
LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.”

However, on page 2 of the Office Action states “A shortened statutory period for reply to this letter is set to expire ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this letter.”

Applicant has relied on the 3 month shortened statutory period for reply as stated in the  
20 Office Action Summary.

Rejection under 35 U.S.C. §251

Claims 1-12,14-27,34-39,48-50, and 53-60 are rejected as being based upon a defective reissue under 35 U.S.C. 251.

25 The Office Action indicates that the error statement in the oath/declaration regarding the additional apparatus claims which seem to be drawn to a subcombination is insufficient and does not identify a correctable error under 35 U.S.C. 251. The Office Action further indicates that at least one error needs to be identified and how it renders the original patent wholly or partly invalid. It is stated that in accordance with 37 CFR 1.175(b)(1), a supplemental reissue

oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

The Office Action provided example of acceptable language to be used in the supplemental oath/declaration which is

5 "Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

10 Submitted herewith are supplements oaths/declarations with the language provided by the Office Action. A supplemental oath/declaration is submitted for each inventor.

#### Conclusion

15 For the foregoing reasons, Applicant believes Claims 1-12, 14-27, 34-39, 48-50 and 53-60 are allowable, and a notice of allowance is respectfully requested. If the Examiner believes that a telephone conference with Applicant's representative might expedite prosecution of the application, he is cordially invited to call at the undersigned agent.

Respectfully submitted,

20

Dated: November 13, 2009

By: /Heidi L. Eisenhut/

25

Heidi L. Eisenhut  
Attorney for Applicant  
Registration No.: 46,812

30 Loza & Loza LLP  
305 North Second Ave. #127  
Upland, California 91786  
Phone: 562-305-5464  
Fax: 562-252-4850  
Email: heidi@lozaip.com

35 Docket No.: IDP-1003